State of Washington
Decision Package

Agency: 310 Department of Corrections
Decision Package Code/Title: 8X – Self-Insurance Premiums

Budget Period: 2005-07

Budget Level: M2 – Inflation and Other Rate Changes

Recommendation Summary Text:
The Department requests additional funding to cover premium increases for the state's Self-Insurance Liability Program.

Agency Total

Fiscal Detail	**FY 2006**	**FY 2007**	**Total**
Operating Expenditures			
001-1 - General Fund - Basic Account-State	$7,296,000	$7,297,000	$14,593,000

Staffing	**FY 2006**	**FY 2007**	**Annual Average**
FTEs	N/A	N/A	N/A

Program 600-Interagency Services

Fiscal Detail	**FY 2006**	**FY 2007**	**Total**
Operating Expenditures			
001-1 - General Fund - Basic Account-State	$7,296,000	$7,297,000	$14,593,000

Staffing	**FY 2006**	**FY 2007**	**Annual Average**
FTEs	N/A	N/A	N/A

Package Description
Washington State is self-insured for tort liability. The Department's tort liability arises from a number of areas including allegations of negligent supervision, vehicle accidents, injury to offenders or visitors, loss or damage to property, and employment related claims. The Department participates in the state self-insurance liability program and pays annual premiums based on past claims activity and reserves on pending claims. In exchange for premium payments, the Department's tort liabilities are paid from the self-insurance liability account.

The Department also purchases commercial excess insurance to cover catastrophic losses. Historically, the Department has been covered for a limit of $5,000,000 per loss from the self-insurance account with an additional $45,000,000 aggregate commercial insurance that attaches at the $5,000,000 level.

Over the past couple of years, large lawsuit verdicts against the state, combined with exponential increases in commercial insurance premiums, have resulted in changes to the state self-insurance and commercial excess insurance coverage. Consequently, the Department has coverage for $15,000,000 per loss from the self-insurance account, no coverage between $15,000,000 to $25,000,000, and commercial excess insurance above $25,000,000. Beginning in Fiscal Year 2001, defense costs were included in the self-insurance program. These changes have resulted in a marked increase in self-insurance premiums.

The premium allocation methodology was changed for the 2005-2007 Biennium. The changes removed a limit on losses and allocates premium based on losses using a pro-rata share (prior was based on positions). The impact of these changes, coupled with changing loss experience of the Department, has resulted in a significant increase in premium.

Self-Insurance Liability Program Premiums:

2001-2003 Biennium	2003-2005 Biennium	2005-2007 Biennium
$20,586,494	$29,298,411	$39,229,276

Loss Trends:

	FY99	FY00	FY01	FY02	FY03
Negligent Supervision	$2,446,398	$ 150,000	$13,895,000	$3,367,500	$ 8,781,000
Other	$1,683,193	$1,719,080	$ 1,207,384	$ 491,210	$ 1,817,056
Total	$4,129,591	$1,869,080	$15,102,384	$3,858,710	$10,598,056

Note: There is one verdict on appeal. This verdict of $22.4 million is not reflected in the paid trend. The actual cost of this claim with interest is approximately $29 million.

During the last five years, approximately 80 percent of the paid liability has resulted from claims alleging negligent supervision. Negligent supervision claims are allegations that an offender on supervision in the community was not properly supervised and as a result a member of the public was seriously injured or killed. The remaining 20 percent of the paid liability results from all other claims of liability against the Department including employment claims, injury to offenders or visitors, vehicle accidents, and loss or damage to property. The trend indicates that losses other than negligent supervision remain fairly stable at about $1,300,000 to 1,600,000, while losses from negligent supervision swing from a low of $150,000 in Fiscal Year 2000 to $13,800,000 in Fiscal Year 2001.

Future Loss Trends:
It is likely the major tort liability facing the Department will continue to be negligent supervision. There are several reasons for this continued trend. Currently, there are approximately 25 pending negligent supervision cases arising from events that occurred from 1996 to present. Typically, there is a lag of several years between the date of loss and final resolution of these types of lawsuit. Additionally, there is a lag between implementation of loss prevention strategies and the impact of those strategies.

In the last few years, the Department has achieved a number of successes including winning the appeal on a $15,000,000 verdict. The result of that case is that the Department is not liable for the actions of offenders who are only on supervision for collection of legal financial obligations.

There is another significant case still on appeal before the Supreme Court on the issue of duty and nexus. This case is pivotal in assessing the future of this liability.

Strategies to Mitigate/Preclude Losses:
The Department will use the following strategies to mitigate/preclude losses from occurring in the future:

- As directed by the Offender Accountability Act (OAA), focus resources to those that pose the highest risk of harm to the public.
- Continue staff training on Department policies and implementation of OAA.
- Increase training of staff and managers regarding liability and risk management.
- Continue development of the automated Offender Management Network Information.
- Continue management reviews of major programs and sharing of best practices (DOC Watch).
- Implementation of community corrections caseload reviews.
- Deploy resources to a significant number of outstations to allow for better communications with law enforcement and the local community.
- Completion of a community corrections workload study. This will help define the costs of supervision as well as the effectiveness of new Department policies implementing OAA.
- In partnership with the Office of Financial Management (OFM) – Risk Management Division and Office of the Attorney General, aggressively manage tort cases.
- Review and revise Department policies with a focus on risk management.

Governor's Executive Order on Risk Management:
The Department has taken the following actions to comply with the Governor's Executive Order:

- Participated on the State Risk Management Task Force.
- Enhanced the Department Risk Management program by adding a Risk Management Attorney and Risk Mitigation Manager to address risk management litigation and loss prevention.
- Participated on the State Risk Management Advisory Committee.
- Chaired the Risk Management Advisory Committee – Loss Prevention Subcommittee.
- Identified the highest areas of risk through trend analysis.
- Focused resources to those offenders that pose the highest risk of harm to the public, as directed by OAA.
- Provided thousands of hours of staff and management training.
- Allocated resources to the greatest extent feasible to community corrections programs where the greatest liability risk exists.
- Developed new policies for implementation of OAA. Policy development and review was focused on simplification and clarification.

Agency Risk Management Goals, Performance Measures, and Progress:
The Department will focus on continuing implementation of the loss prevention strategies listed above and will participate in the OFM – State Risk Management statewide focus on vehicle accident prevention. The Department's strategic plan for Fiscal Years 2003-2009 identifies Risk Management and Mitigation of Liability as a continuing challenge. Strategies and goals are identified.

- Conduct reviews of field offices to ensure that Department policies and procedures are being followed.
- Continue staff training of the Department policies and implementation of offender accountability.
- Implement practices consistent with the Governor's Executive Order regarding risk management.
- Expand Adult Services Academy to meet the training requirements of offender accountability.
- Begin a prison workload study of classifications affected by OAA.
- Allocate human resources using the community corrections workload study methodology.
- Continue implementation of the re-entry project.

Narrative Justification and Impact Statement

How contributes to strategic plan:
This request is critical to agency activities, the strategic plan, and statewide results. The request ensures that the Department has the necessary resources to maintain current levels of service and performance.

This request is required to sustain the agency activity *Corrections - Core Administration*. The resources identified will be directed to support the agency strategy such as deploying resources efficiently and effectively with regard to meeting constitutional mandates. This strategy moves the Department closer to meeting its high-level organizational goal to enhance organizational capacity and competency. These high-level goals are intermediate outcomes and help achieve statewide results that improve the safety of people and property.

Performance Measure Detail
No measures were submitted for this package.

Reason for change:
The reason for the change is due to the increasing jury awards and settlements for tort liability, primarily arising from negligent supervision. Another significant factor is the change in premium allocation.

Impact on clients and services:
The increase is necessary to maintain our current level of service.

Impact on other state programs:
N/A

Relationship to capital budget:
N/A

Required changes to existing RCW, WAC, contract, or plan:
N/A

Alternatives explored by agency:
None. The Department is required by statute, RCW 4.92.130 and RCW 4.92.160 to participate in the Self-Insurance Liability Program.

Budget impacts in future biennia:
The funding will continue into future biennia.

Distinction between one-time and ongoing costs:
The costs are ongoing.

Effects of non-funding:
The Department would not have enough funding to pay the Self-Insurance Liability Account required by statute.

Expenditure Calculations and Assumptions:

Object Detail	FY 2006	FY 2007	Total
E Goods and Services	$7,296,000	$7,297,000	$14,593,000